

REMARKS/ARGUMENTS

Applicants respond herein to the final Office Action dated June 4, 2010.

Claims 1-3 and 5-10 are pending in the application, with claims 5-9 having been withdrawn and claim 1 having been cancelled with claim 10 having been added in replacement thereof. Dependency of claims 2 and 3 have been changed to claim 10.

The objection to the specification has been obviated with removal from the claims of the language contended to lack antecedent basis in the specification. New claim 10 is fully supported in the specification and drawings. Objection to claim 1 based on a lack of spacing in the term “600mm” has been obviated in replacement claim 10.

The rejection of the claims under 35 UC 112, first paragraph, as not complying with the written description requirement has been similarly obviated with replacement claim 10 not containing the phrase considered by the Examiner to be new matter.

Claims 1-3 were rejected under 35 USC 103(a) as being unpatentable over Ishino et al. (JP 2001275591) in view of Guarino (US 5,863,576) and Reutimann (US 5,540,944). The Examiner considered it to be obvious to place Ishino et al.’s sushi product on a box and insert it into a bag as taught by Guarino with a vacuum as taught by Reutimann in order to provide an attractive, safe food product that can be stored and microwaved.

Claims 1-3 were also provisionally rejected on the basis of nonstatutory obviousness type double patenting over claims 2, 4 and 6 of co-pending application serial no. 11/817,285 and also claims 2, 4 and 5 of co-pending application serial no. 10/570,016.

With respect to these latter rejections, it is noted that neither of the co-pending applications was filed before the present application and neither has issued. Accordingly, the rejections remain provisional and no response is appropriate or required to be made at this time.

With respect to the rejection of claims 1-3 based on Ishino et al. in view of Guarino and Reutimann, it is submitted that the only basis given by the Examiner for one skilled in the art to effect the combination is that one skilled in the art would do so “in order to provide an attractive, safe food product that can be stored and microwaved”. There is nothing in any of the art to indicate that Ishino et al.’s sushi product cannot be stored or microwaved or that it is not attractive or that a combination with Guarino’s components would make it more storable or microwavable or even more attractive. Instead, the Examiner is suggesting, absent the teachings

of the present invention, a combination which requires additional components, operational handling and expense without any discernible benefit or improvement. In fact, the Ishino et al. product package structure has benefit of full product visibility for consumers, which full visibility is obstructed by the Guarino structure. One skilled in the art would actually be deterred from making the combination suggested by the Examiner.

Furthermore, even were it to be conceded that such a combination would be made, it would still not provide the presently claimed invention. The sushi product in Ishino et al. and in the present claims is that of an essentially regular squared or rectangular configuration (see the Figure 2 of Ishino et al., cited and shown by the Examiner, at page 4 of the Office Action). The use of a tray as shown by Guarino, with the sushi material as shown by Ishino et al., as suggested by the Examiner, would simply fully enclose the sushi material without any spacing, as required in the present claims. Any spacing in Guarino is an artifact of the irregular shape of the enclosed lobster seafood. To the contrary, sushi is of a regular shape and is presently claimed as being of a shaped form, and which is shown in Ishino et al. as being square or rectangular, without room for space when contained in a box or tray. Claim 10 includes the limitation that the open topped plastic box has a top opening broader than the bottom of the box, which results in the requisite lateral distancing at the top from the sushi, as shown in all of the figures.

In addition, in the present claims, an open-topped plastic box having a top opening and a bottom, the top opening of which is formed as to be broader than the bottom, is placed in said packing bag, thereby, in the packing bag, a space being formed around the sushi product, in the vacuumed condition, provides interspaces between the sushi product and the plastic box and between the plastic box and the packing bag. The space formed around the sushi product in said packing bag has a volume 0.2 to 0.6 times that of sushi product at the time of thawing by means of microwave, and after thawing. The resulting packed sushi product is allowed to stand for a period of 15 to 30 minutes without unpacking, allowing water vapor emanating at least from the shaped rice section to flow in a space formed between the sushi product and the box. This provides steaming the shaped rice section and the sushi material or materials between 15°C and 30°C.

However, in Ishino et al., a first layer of plastic film is tightly, directly and entirely surrounding the sushi product by vacuum; an aluminum foil placed directly on sushi material

portion of said first layer of plastic film surrounding said frozen sushi product; a second layer of plastic film covering directly and tightly the upper surface of said aluminum foil lying on the sushi material portion and the surface of the first layer of plastic film except for that portion of the first layer of plastic film that is covered with aluminum foil.

Accordingly, in Ishino et al., the sushi product is doubly-covered with layers of plastic film tightly, directly and entirely surrounding the sushi product. The space formed around the sushi product in said packing bag thus has a volume fewer than a volume 0.1 times that of sushi product at the time of thawing, when the volume of sushi product is supposed to be 1. It is difficult to heat sushi product by water vapor emanating from the frozen boiled rice distant from the heated portion.

However, in the package presently claimed, it is easy to heat sushi product by water vapor generated from the frozen boiled rice distant from heated portion. The space formed around the sushi product permits water vapor emanating at least from a shaped rice section of the frozen sushi product by heating of the frozen sushi product in thawing, to circulate through the space in which the claimed size of the space is 0.2 to 0.6, when the volume of sushi product is supposed to be 1.

The space has a volume which enables appropriate steaming of the sushi product after the thawing by microwave. If the space has a large volume, the resulting product is bulky as a whole. In addition, a large space formed around the sushi product in the packing bag undesirably results in a smaller steaming effect. On the other hand, a smaller space formed around the sushi product in the packing bag undesirably takes a long time to effect approximately uniform steaming over the sushi product.

In the present claims, the packing bag containing the sushi product in the box is vacuumed under reduced pressure of 600 mm Hg or lower, when the packing bag is vacuumed, the bag collapses under atmospheric pressure, and the inner surface of the packing bag is brought in tight contact with the shaped rice section to enable the sushi product to be held fixedly in the box. In this manner, the packing bag is vacuumed, and the inner surface of an upper portion of the bag is thereby brought in tight contact with the sushi material or materials and the shaped rice section under atmospheric pressure, and the sushi material or materials and the shaped rice section are frozen in such a compactly held condition. Accordingly, the sushi material or materials undergo no dislocation during the thawing. In addition, air around the sushi product is

removed in the vacuum process, and heat transfer in the cooling is improved thereby.

Ishino et al. does not suggest a space being formed around the sushi product in a packing bag having a volume 0.2 to 0.6 times that of sushi product at the time of thawing by microwave, and after thawing. Ishino et al. does not disclose or suggest allowing a packed sushi product to stand for a period of 15 to 30 minutes without unpacking, allowing water vapor emanating at least from the shaped rice section to flow in a space formed between the sushi product and the box, thereby steaming the shaped rice section and the sushi material or materials between 15°C and 30°C.

As presently claimed, the sushi product has the frozen and shaped boiled rice which emanate large amount of water vapor, and has a volume 0.2 to 0.6 times that of sushi product at the time of thawing by means of microwave, and after thawing.

It is possible to allow water vapor emanating at least from the shaped rice section to flow at least in a space formed between the sushi product and the box, thereby steaming the shaped rice section and the sushi material or materials between 15°C and 30°C.

In the Guarino reference, the intended use of the pallet is described in lines 30-47 of column 2 of the specification.

Guarino does not, however, suggest that a space formed around a sushi product in a packing bag having a volume 0.2 to 0.6 times that of sushi product at the time of thawing by microwave, and after thawing, the resulting packed sushi product being able to stand for a period of 15 to 30 minutes without unpacking, allowing water vapor emanating at least from the shaped rice section to flow in a space formed between the sushi product and the box, thereby steaming the shaped rice section and the sushi material or materials between 15°C and 30°C.

Guarino does not suggest the packing bag containing the sushi product in the box being vacuumed under reduced pressure of 600 mm Hg or lower, and thereby air around the sushi product is removed and the heat transfer in the cooling of the vacuum-packed sushi product is promoted.

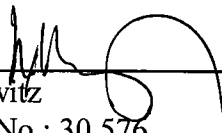
The Reutimann reference does not suggest to one skilled in the art the use of such vacuum pressure in either Guarino's structure and application with an irregular shape.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

Respectfully submitted,

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